

Tammy L. Arcuri

vs.

Provincetown Historic
District Commission
et al.

8 1

5

0



18CV00518

VC

18

CIVIL TRACKING ORDER (STANDING ORDER 1- 88)	DOCKET NUMBER 1872CV00518	Trial Court of Massachusetts The Superior Court 
CASE NAME Tammy L Arcuri vs. Provincetown Historic District Commission et al		Scott W. Nickerson, Clerk of Court Barnstable County
TO: File Copy		COURT NAME & ADDRESS Barnstable County Superior Court 3195 Main Street Barnstable, MA 02630

TRACKING ORDER - X - Accelerated

You are hereby notified that this case is on the track referenced above as per Superior Court Standing Order 1-88. The order requires that the various stages of litigation described below must be completed not later than the deadlines indicated.

STAGES OF LITIGATION

DEADLINE

	SERVED BY	FILED BY	HEARD BY
Service of process made and return filed with the Court		12/24/2018	
Response to the complaint filed (also see MRCP 12)		09/24/2019	
All motions under MRCP 12, 19, and 20			
All motions under MRCP 15			
All discovery requests and depositions served and non-expert depositions completed			
All motions under MRCP 56			
Final pre-trial conference held and/or firm trial date set			
Case shall be resolved and judgment shall issue by			

The final pre-trial deadline is not the scheduled date of the conference. You will be notified of that date at a later time.

Counsel for plaintiff must serve this tracking order on defendant before the deadline for filing return of service.

This case is assigned to

DATE ISSUED 09/24/2018	ASSISTANT CLERK Scott W Nickerson	PHONE (508)375-6684
---------------------------	--------------------------------------	------------------------

CIVIL ACTION COVER SHEET		DOCKET NUMBER <i>1872CV518</i>	Trial Court of Massachusetts The Superior Court 												
PLAINTIFF(S): ADDRESS: Newton, MA 02466	Tammy L. Arcuri 132 Charles Street	COUNTY Provincetown Historic District Commission and Provincetown Building													
ATTORNEY: ADDRESS: Same	SAME Same	DEFENDANT(S): ADDRESS: Provincetown, MA 02657	SUPERIOR COURT BARNSTABLE, SS FILED SEP 24 2018 <i>Scott & Hale Clark</i>												
BBO: 548912	TYPE OF ACTION AND TRACK DESIGNATION (see reverse side)														
CODE NO. <i>E99</i>	TYPE OF ACTION (specify) Equity	TRACK F	HAS A JURY CLAIM BEEN MADE? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO												
*If "Other" please describe: Appeal from a determination of Provincetown Historic District Commission pursuant to M.G.L. C. 40C Sec 12A															
STATEMENT OF DAMAGES PURSUANT TO G.L. c. 212, § 3A															
<p>The following is a full, itemized and detailed statement of the facts on which the undersigned plaintiff or plaintiff counsel relies to determine money damages. For this form, disregard double or treble damage claims; indicate single damages only.</p> <p>TORT CLAIMS (attach additional sheets as necessary)</p> <p>A. Documented medical expenses to date:</p> <table> <tr><td>1. Total hospital expenses</td><td>\$</td></tr> <tr><td>2. Total doctor expenses</td><td>\$</td></tr> <tr><td>3. Total chiropractic expenses</td><td>\$</td></tr> <tr><td>4. Total physical therapy expenses</td><td>\$</td></tr> <tr><td>5. Total other expenses (describe below)</td><td>\$</td></tr> <tr><td colspan="2">Subtotal (A): \$</td></tr> </table> <p>B. Documented lost wages and compensation to date</p> <p>C. Documented property damages to date</p> <p>D. Reasonably anticipated future medical and hospital expenses</p> <p>E. Reasonably anticipated lost wages</p> <p>F. Other documented items of damages (describe below)</p> <p>G. Briefly describe plaintiff's injury, including the nature and extent of injury:</p> <p style="text-align: right;">TOTAL (A-F): \$</p>				1. Total hospital expenses	\$	2. Total doctor expenses	\$	3. Total chiropractic expenses	\$	4. Total physical therapy expenses	\$	5. Total other expenses (describe below)	\$	Subtotal (A): \$	
1. Total hospital expenses	\$														
2. Total doctor expenses	\$														
3. Total chiropractic expenses	\$														
4. Total physical therapy expenses	\$														
5. Total other expenses (describe below)	\$														
Subtotal (A): \$															
<p>CONTRACT CLAIMS (attach additional sheets as necessary)</p> <p>Provide a detailed description of claims(s): Plaintiff is an aggrieved person from a determination of the Provincetown Historic District Commission requested she cut a portion of a newly built fence. Plaintiff seeks equity judgment to keep fence as built</p> <p>Signature of Attorney/Pro Se Plaintiff: <i>[Signature]</i> Date: <i>9/24/18</i></p>															
<p>RELATED ACTIONS: Please provide the case number, case name, and county of any related actions pending in the Superior Court.</p>															
<p>CERTIFICATION PURSUANT TO SJC RULE 1:18 I hereby certify that I have complied with requirements of Rule 5 of the Supreme Judicial Court Uniform Rules on Dispute Resolution (SJC Rule 1:18) requiring that I provide my clients with information about court-connected dispute resolution services and discuss with them the advantages and disadvantages of the various methods of dispute resolution.</p> <p>Signature of Attorney of Record: <i>[Signature]</i> Date: <i>9/24/18</i></p>															

1

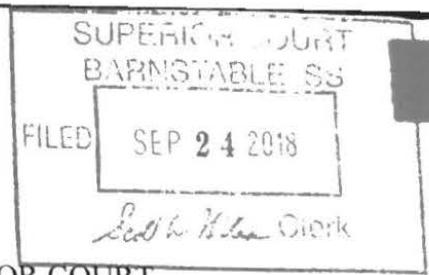
2



18CV00518



18



COMMONWEALTH OF MASSACHUSETTS

BARNSTABLE, ss.

BARNSTABLE SUPERIOR COURT
C.A. NO. 1872CV518

Tammy L. Arcuri,)
Plaintiff)
Vs.)
Provincetown Historic District Commission,)
Thomas Baggert, Member and)
Provincetown Building Commissioner,)
Anne Howard)
Defendants)

COMPLAINT AND NOTICE OF APPEAL

INTRODUCTION

This is a Complaint and Notice of Appeal by an aggrieved person, the Plaintiff, Tammy L. Arcuri (“Arcuri”) of a determination of the Provincetown Historic District Commission (HDC) and the filing of an Appeal from such determination pursuant to M.G.L. Chapter 40C, Section 12A (copy attached **Exhibit #1**, emphasis added).

PARTIES

1. Tammy L. Arcuri is a natural person who owns the real property at 206 Bradford Street, Provincetown, MA and is the Plaintiff in the instant action as well as a lawyer in good standing in the commonwealth of Massachusetts since 1986.
2. The Defendant, Provincetown Historic District Commission (HDC) is a commission or board to which M.G.L. c. 40, Sec 12A applies and is comprised of volunteers to which homeowners make application for approval of work in a Historic district.
3. The Provincetown Building Commission is authorized to send notices on behalf of the HDC and is a Commission to which M.G.L. c. 40 sec. 12A applies.

FACTS

The Plaintiff filed an Application request with the Historic District Commission (HDC) of Provincetown and attended an open Town hearing on or about September 6, 2017, at which time the Plaintiff's plans and drawings were approved, with conditions, to build a fence around her property at 206 Bradford Street Provincetown, MA ("The Premises") to "Protect the occupants," Ms. Arcuri and her now 4 year old daughter, and "beautify the property". (See Application and approval attached **Exhibit #2**). The Plaintiff maintains that based on the plans and discussions in the open meeting that she adhered fully to the approval and request of conditions, and that the fence was completed in full conformance of the approval. In fact, Plaintiff maintains that the violation notice served upon her is a violation of the HDC's approval.

After the fence was built by the Plaintiff in accordance with the approved plans, the HDC requested that a small section of the fence perpendicular to Bradford Street be cut down Two (2) feet lower and Eight-Ten (8-10) feet back, to the first pressure treated post. That section of the fence is completely invisible to any cars or pedestrians when traveling out of Town (See photo attached **Exhibit #3**). This is an unreasonable, unfair, costly and destructive position given all the circumstances, facts and conditions of approval. Thus, the Plaintiff is filing this Complaint and Notice of Appeal to seek a remedy in equity to be allowed to keep her fence as is and unharmed. The fence is made of IPE, a high-quality African hardwood, and is of the highest quality workmanship equal to a piece of one-of-a kind Art.

During the initial public hearing at which Plaintiff's plans and requests for a fence were approved upon conditions there was an open discussion about the fence not becoming 6' high until it was 10' from the property. Arcuri specifically asked and pointed and referenced the side of her yard near the driveway; this is the only side Plaintiff thought the HDC was referring to since that side is not at the lot line but rather somewhat in the middle of Arcuri's yard because of the driveway. Arcuri built the fence exactly as she believed she had permission to build it. Arcuri continued the back fence in exact like kind perpendicular to the Street exactly as she had discussed in open hearing that she would do. This perpendicular fence is a Linear Ship-Lap fence, in perfect keeping with the mid-century modern house and fully approved and used by Eickler Homes which is the Pre-eminent Mid-Century Modern Experts in the Country.

Subsequently, on September 5, 2018, the HDC heard the matter after the fence was built and despite Five (5) or more letters from all abutters, neighbors and local home owners in full support of the fence, (See letters attached as **Exhibit# 4**). HDC board members Voted as follows: One (1) vote in Arcuri's favor, One (1) abstention, and Three (3) votes against; thus HDC requested a Two (2) feet by Eight -Ten (8-10) feet of Arcuri's fence to be removed. Plaintiff contends that such a drastic butchering of the fence would simply ruin and destroy the entire pain staking and expensive project and serve no purpose of the fence by-law by forcing such damage and destruction.

Arcuri made accurate and precise statements at the meeting on September 5, 2018, that were wrongly refuted by HDC as not true, which is in bad faith and a violation of responsibility of HDC. For example, Arcuri maintained that the fence in question is

completely invisible when driving out of Provincetown due to the immediate abutter's hedges and can only be seen when driving into Town, which is an issue that can best be addressed with landscaping. Please see Photograph evidence of the same in the attached Exhibit #3. However, the HDC board member wrongly refuted Arcuri's statement as inaccurate. Moreover, the HDC Board members said it was "nice" that Arcuri collected multiple letters from abutters and neighbors who are all in favor of leaving the fence as built but HDC said the letters "did not matter". This statement goes against the instructions given to Arcuri directly by the building commissioner to get letters of approval and support from neighbors and, it appears to be contrary to the entire purpose of the overall intention of the By-Laws and the open meeting rules including public notice to abutters who can in fact voice their opinions. Opinions that *SHOULD* be heard and counted.

ARGUMENT

Plaintiff searched for more than 8 months for a fence company to build a horizontal fence "to blend with the mid-century modern house" as required by HDC. Arcuri spoke to Three (3) Fence companies up to 60 miles away and no one would take the job. Finally, she hired a Master Carpenter/Artist to build it. (See Affidavit of Albert W. Wood Attached as **Exhibit #5**). The fence is one-of-a-kind artist built, no other fence in Provincetown looks like this and Arcuri has already received dozens of direct compliments from people who go out of their way to stop and compliment and ask questions.

The fence is also a major positive improvement to the neighborhood and the Town for that matter and a positive factor on the busy dangerous section of Bradford

Street near the intersection of Howland Street. This section is so Dangerous that the Town in fact wrote the word “DANGER” on the Street in yellow writing in front of Arcuri’s house, that writing was later removed and it now reads “Stop Ahead” with multiple signs. Moreover, most recently, within the past month, the Town installed an automated blinking red stop sign at the nearest intersection due to the serious traffic problems and regular speeding cars in this area. In fact, police hide across from Arcuri’s house to catch speeders in an effort to minimize the number of accidents in that area. Many times, in the past 15 years since owning the property, emergency vehicles have pulled into Arcuri’s driveway to attend to injured people on the road. Arcuri built the fence in such a way as to accommodate added safety for the occupants, pedestrians, bicyclists and motorists in this dangerous area.

The overall purpose of the fence by-law is to preserve open garden spaces and beautify Provincetown. This goal is best satisfied by allowing the unique beauty of the full fence to remain. The fence is low enough that it preserves the open garden space in Arcuri’s yard for all to see and enjoy. Cutting this fence would be a tragedy to Arcuri and the abutters and neighbors and Townspeople who all really love and appreciate and enjoy the fence as it stands. (See Affidavit of Senator Serge Joyal attached **Exhibit #6**). Moreover, it would forever look awful in Arcuri’s front yard for all to see, as even landscaping could not hide such a hole and damaged fence because the immediate abutter’s hedges will simply grow into Arcuri’s yard and wreak havoc on any plantings in her yard in that area. On the other hand, landscaping can easily address the issue if the fence remains as built. (See affidavit of immediate abutter John O’Hara Attached **Exhibit #7**). Cutting this fence as requested serves no purpose whatsoever to anyone. HDC has

the authority on a case by case basis to allow the fence to stand as it in conformance with the spirit and intention of the by-laws. Arcuri's sole intention and understanding was she built the fence as approved

The Plaintiff would endure great expense and damage to her property to cut the fence in the section requested and then try to patch the hole left in the ugly undecorated pressure treated fence post, before finally trying to landscape and stop the neighbor's bushes from encroaching in Plaintiff's yard. Even after all that extreme effort, cost, expense, and heartache, the final outcome would look absolutely terrible, it would completely destroy the design and continuity of the entire beautiful fence project: it would ruin the work of Art and completely destroy the Artist signature in that exact corner and the master carpentry on that decorated post (See pertinent photos **Exhibit #8**).

CONCLUSION

Wherefore, the Plaintiff respectfully requests that this court use its authority to annul the HDC decision and allow the fence to stand as built unharmed or for any other relief this court deems fair and equitable.

Respectfully Submitted,
Tammy L. Arcuri



Tammy L. Arcuri,
Attorney at Law
132 Charles Street Suite 202
Newton, MA 02466
(617) 964-0068
BBO# 548912

Dated: September 21st, 2018

Exhibit 1

Page 1 of 2

art I

ADMINISTRATION OF THE GOVERNMENT

Title VII CITIES, TOWNS AND DISTRICTS**Chapter 40C** HISTORIC DISTRICTS**Section 12A** APPEAL TO SUPERIOR COURT

Section 12A. Any person aggrieved by a determination of the commission, or by the finding of a person or persons making a review, if the provisions of section twelve are included in a local ordinance or by-law, may, within twenty days after the filing of the notice of such determination or such finding with the city or town clerk, appeal to the superior court sitting in equity for the county in which the city or town is situated. The court shall hear all pertinent evidence and shall annul the determination of the commission if it finds the decision of the commission to be unsupported by the evidence or to exceed the authority of the commission, or may remand the case for further action by the commission or make such other decree as justice and equity may require. The remedy provided by this section shall be exclusive but the parties shall have all rights of appeal and exception as in other equity cases. Costs shall not be allowed against the commission unless it shall appear to the court that the commission acted with gross negligence, in bad faith or with malice in the matter from which the appeal was taken. Costs shall

Exhibit 1

Page 1 of 2

Part I ADMINISTRATION OF THE GOVERNMENT**Title VII** CITIES, TOWNS AND DISTRICTS**Chapter 40C** HISTORIC DISTRICTS**Section 12A** APPEAL TO SUPERIOR COURT

Section 12A. Any person aggrieved by a determination of the commission, or by the finding of a person or persons making a review, if the provisions of section twelve are included in a local ordinance or by-law, may, within twenty days after the filing of the notice of such determination or such finding with the city or town clerk, appeal to the superior court sitting in equity for the county in which the city or town is situated. The court shall hear all pertinent evidence and shall annul the determination of the commission if it finds the decision of the commission to be unsupported by the evidence or to exceed the authority of the commission, or may remand the case for further action by the commission or make such other decree as justice and equity may require. The remedy provided by this section shall be exclusive but the parties shall have all rights of appeal and exception as in other equity cases. Costs shall not be allowed against the commission unless it shall appear to the court that the commission acted with gross negligence, in bad faith or with malice in the matter from which the appeal was taken. Costs shall



not be allowed against the party appealing from such determination of the commission unless it shall appear to the court that such party acted in bad faith or with malice in making the appeal to the court.



18CV00518



18

APPLICANT: ZARCHEN
 LOCATION: 206 BRADFORD STREET
 CITY, STATE: PROVINCETOWN, MA

DEED/CERT: 2495-269
 PLAN REF: 161-79



Proposed fence
 along front
 and sides and
 top of driveway
 to protect occupants
 & beautify property

994 (c) Boston Survey Software

FILED TO:

ARED: 02-27-2004
 E: 1 inch = 20 feet

W. B. & CO. INC.

8-50



18CV00518

CV

18

Weds 9/6 3:30

Exhibit 2
Page 2 of 6

FILE# _____

TOWN OF PROVINCETOWN
**HISTORIC DISTRICT COMMISSION
APPLICATION**

Location of Structure 206 Bradford Street Map/Parcel 13 - 2 - 8

Applicant Tammy L. Arcuri Contact info _____

Applicant's Address 132 Charles Street, Newton, MA. 02466

Owner (if other than applicant) Same Contact info 617-417-1994

Owner's Address Same 617-964-0068

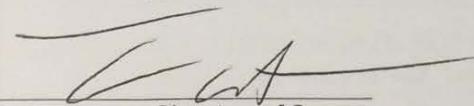
Briefly describe the proposed project, alterations and/or additions (for full review, also attach a more detailed project narrative) fence around perimeter

to connect with existing fencing
and to enclosed + beautify yard
and provide security + safety for
occupants

Briefly describe the type of building materials to be used (type of shingles, siding, trim, doors, windows, etc.) red cedar on fence

granite on pillars to match existing stone

I hereby authorize the applicant named above to act on my behalf and to make changes in specifications or the plans contained in this application in order to comply with the Historic District Commission's recommendations. I hereby agree to abide by and comply with the terms and conditions of this application and the Historic District Commission's decision.


Signature of Owner

7-31-17
Date

Office Use Only

Administrative Approval _____ Date _____

HDC Application revised 7-10-14

8 -

51

0



18CV00518

< C

8

Exhibit 2
page 3 of 6



TOWN OF PROVINCETOWN
HISTORIC DISTRICT COMMISSION

Date 6 SEPT 2017

HDC-18-009

Decision of the HDC on the appeal and petition of Tammy Ancarisi for a Certificate of Appropriateness/Hardship/Non-applicability to be issued in accordance with the Provincetown Historic District Commission established under the General By-Laws, Chapter 15 of the Town of Provincetown for the property located at 206 BRADFORD. After the required advertising, notification of parties in interest and posting of notice, a Public Hearing was held on

The applicant sought approval to/for

NEW CONTEMPORARY FENCE TO BLEND
WITH MID-CENTURY HOUSE

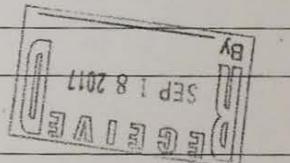
A motion was made to:

Approve as presented Approve with conditions
 Deny the application as presented without prejudice

The Historic District Commission application/decision for case # HDC 18-009, by a vote of

3 in favor, 0 against and 0 abstained, based on the following findings:

11 FENCES Guidelines - Historic District By-Laws



Conditions

Fence be 4 feet and in 50's style modern approach since it is consistent with previous HDC decision requiring 50's style building be maintained in pristine state as an iconic 1950's style distinguished building. Fence will be 10 feet from property line elevated 6' height and will match 1950's modern style.

Guidelines 11 Fences - Existing fences that reflect these characteristics should be encouraged

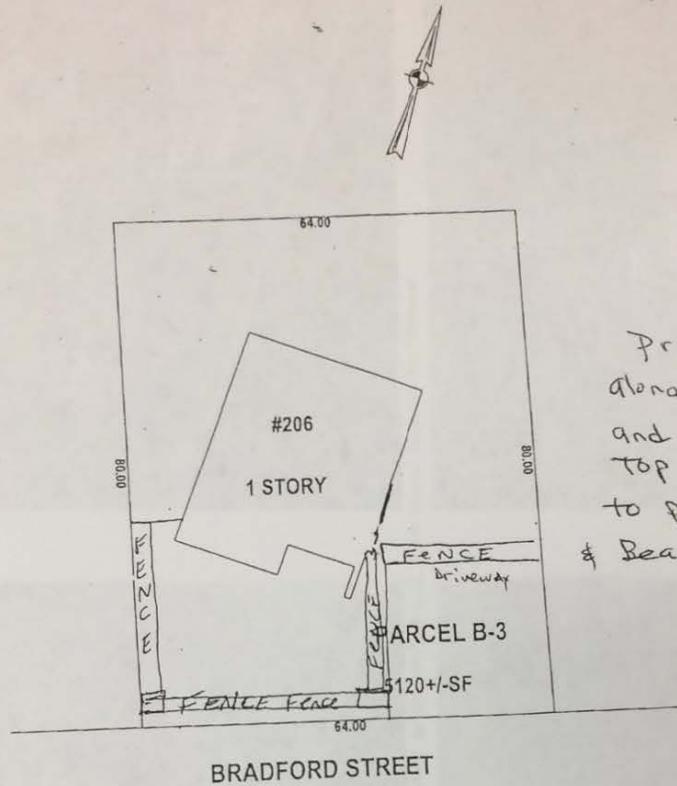
Also follows Fence Policy adopted by HDC



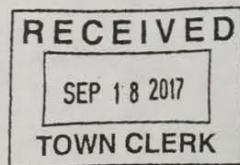
18CV00518



Exhibit 2
page 4 of 6



Proposed fence
along front
and sides and
top of driveway
to protect occupants
& beautify property



8 -

5

0

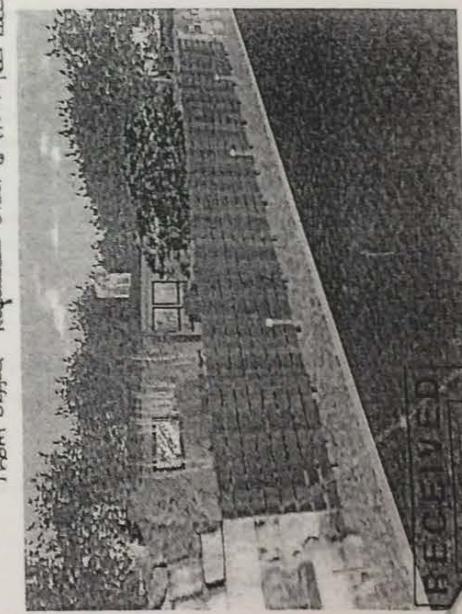
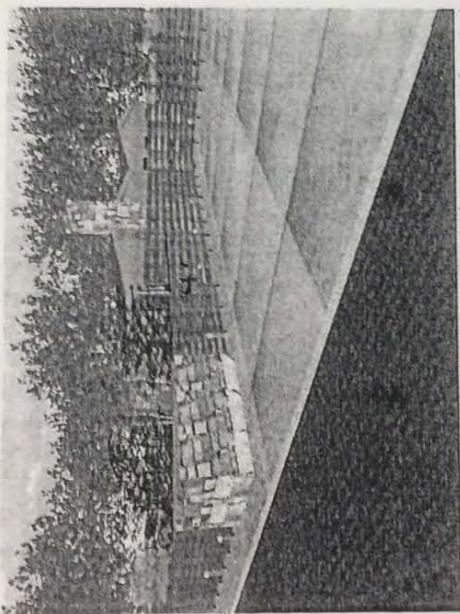
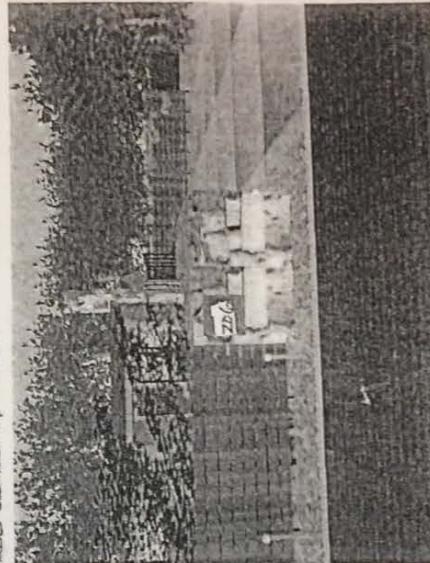
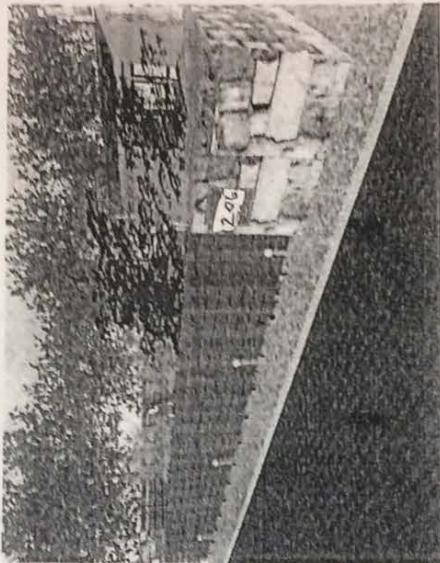


18CV00518

CY

18

Exhibit 2 page 5 of 6



Comm. Dev.

Exhibit 2 page 6 of 6

Board Members Sitting	In Favor	In Opposition	Abstained
Marieke Yaow	✓		
THOMAS BUDGET	✓		
Martin Restica			

Board Members signatures

Certified by

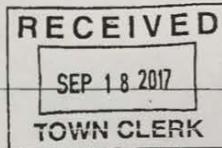
Marieke Yaow *M*

chair

date
9-6-17

clerk

date



The Certificate issued hereunder shall not be valid until it is properly recorded with the Town Clerk. The applicant shall furnish proof of said filing prior to obtaining a building permit.

IMPORTANT: Any person aggrieved by a determination of the Historic District Commission may, within twenty (20) days after the filing of the notice of such determination with the Town Clerk, appeal to the Superior Court as provided in Chapter 40C, Section 12A. Notice of an appeal must also be filed with the Office of the Town Clerk within twenty (20) days of the determination.

All approved improvements shall be carried out as shown on the plans and specifications submitted and approved. Any alterations to the above-approved proposal must be submitted to the Commission for review and approval. Failure to comply with the conditions of this approval will be treated as a violation and enforced by the Commission and the Building Commissioner.

This certificate is valid for a period of **ONE YEAR** from the date of issue. If the work authorized by this certificate is not commenced within one year after the date of issue, the applicant must resubmit the proposal for review and approval by the Commission.

Attest: A true and correct copy of the decision is filed with the offices of the Town Clerk and the Provincetown Historic District Commission.



18CV00518



Exhibit #3

Page 1 of 2



Perpendicular fence
Completely hidden from
View driving out of Town





Exhibit #3
page 2 of 2

Perpendicular fence only
visible when driving into
Town. Plaintiff intends
to landscape and cover
area in question
(see dotted lines)

Exhibit #4
Page 1 of 8

August 30, 2018

Town of Provincetown
Department of Community Development
260 Commercial Street
Provincetown, MA 02657

Re: 206 Bradford Street, Fence

To whom it may concern:

I own 204 Bradford Street directly abutting 206 Bradford Street and the new fence- which I Love in its entirety and do not want to see any changes. I support this fence as built 110% and I would be willing to attend any hearing or meeting to allow a variance but this Wednesday Sept 5th, is too short notice for me to get there with the holiday but I could be available by telephone if that helps. I do not want to see any changes made to the current status.

I really love everything about the new fence. For the first time in decades my house has privacy again (a similar fence was there years ago) from the busy, noisy, dangerous Bradford Street and my yard is much better with the fence between us- I get some sound and light barrier and no trash blowing in and it is just delightful to have this new fence up; I am grateful to my neighbor Tammy Arcuri for putting this great fence up.

This is not your average fence, in total it transforms the area for the better and is very beautiful and Artistic, there is nothing else like it in Provincetown. It really enhances Bradford Street for the better and is safe for the occupants with a little child and much better for me as the abutter who has some privacy now and a little blockage from the busy dangerous Street with noise and light from many big trucks, busses, trolleys, etc.

I am aware of the Town's comments that the fence is 2' high on my yard side for 10 feet in from the street. I really like the entire fence as it is built and do not want to see any changes because it is SO MUCH BETTER for my yard and for the viewing pleasure of thousands who drive or walk by. Any reduction in the left side fence will not allow for any more views yet it would actually ruin the privacy and protection and aesthetics of the entire fence project and not contribute but rather detract from the enhancement of both yards and this clearly expensive and artistic fence. I feel strongly that this busy dangerous section of Bradford St. should get some variable treatment to protect the homeowners from the traffic we have to deal with that gets louder & busier and more dangerous all the time. Also, my large bushes/trees would only encroach on the fence if it is cut down. The way it is now there is complete view into the property at 206 Bradford in the front and on the right side and privacy on the busy, noisy & dangerous Street. The fence between me and my neighbor should be allowed to stay, it is perfect as is and is badly needed.

Thank you for your attention to this matter.

Very truly Yours,



John Ohara

Doc ID: 50769907a5545d0ef1aa830e1352e8188592bdd1



18CV00518



Exhibit #4
Page 2 of 8

Town of Provincetown
Department of Community Development
Town Hall
260 Commercial Street
Provincetown, MA 02657

Re: 206 Bradford Street, Fence

August 29, 2018

To whom it may concern:

I live at 206A Bradford Street directly behind 206 Bradford Street and I love everything about the new fence of our neighbor. It transforms the area for the better and is very beautiful and Artistic, there is nothing else like it in PTown. I see people walk by and stop to admire it and people are talking about it all positively. It really enhances Bradford Street for the better and gives needed privacy between the yards.

I am aware of the Town's comments alleging that the fence is 2' high on the left side only just for 10 feet in recess from the street. We believe this should not be required to be changed as the fence as built truly makes for a much better viewing pleasure for everyone to drive or walk by and any reduction in the left side fence will not allow for any more views yet it would actually ruin the aesthetics of the entire project as tree branches will fall in and any change will not contribute but rather detract from the enhancement of both yards and this artistic fence. There is complete view into the property in the front and on the right side and privacy on the busy, noisy & dangerous Street between neighbors as is badly needed. This is clearly a well built expensive and unique fence Provincetown can be proud of. Many people complement about this fence each day already. I personally told the contractor to sign it as a work of Art.

Thank you for your attention to this matter.

Very truly Yours,


Serge Joyal

Exhibit #4

page 3 of 8

Town of Provincetown
Department of Community Development
Town Hall
260 Commercial Street
Provincetown, MA 02657

Re: 206 Bradford Street, Fence

To whom it may concern:

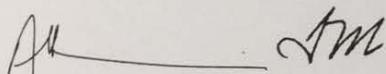
We live at 210 Bradford Street and own & operate Roux Provincetown Bed & Breakfast. We are writing to seek a fence variance for our neighbor at 206 Bradford Street.

We pass by 206 Bradford Street almost every day (often twice a day) and are thrilled with the beauty and quality of the new fence. The house itself is an iconic Mid-Century and this new artistic addition adds an element to the street and the East End, in general. We have talked to other townspeople (as well as our guests) and everyone is speaking positively and feel it is a complete enhancement.

We are aware of the Town's comments alleging that the fence is 2' higher on the left side only and required to be 10 feet in from the street. We believe this would ruin the aesthetics of the entire project and not contribute to, but rather detract from any enhancements.

Thank you for your consideration. We hope you ultimately agree that this suggested fence variance would be an aesthetically proper addition to this end of Bradford Street.

Very truly Yours,



Ilene Mitnick and Allison Baldwin
210 Bradford Street
Provincetown, MA 02657

August 30, 2018

Exhibit #4
Page 4 of 8

Town of Provincetown
Department of Community Development
Town Hall
260 Commercial Street
Provincetown, MA 02657

Re: 206 Bradford Street, Fence

To whom it may concern:

I live at 207 Bradford Street directly across from 206 Bradford Street and I love everything about the new fence!! Please do not require any changes. It transforms the area for the better and is very beautiful and Artistic, there is nothing else like it in PTown. I see people walk by and stop to admire it and people are talking about it all positively in the Town. It really enhances Bradford Street for the better and is safe for the occupants with a little child and better for the abutters who have some privacy now and a little block from the busy dangerous Street with big trucks and busses.

I am aware of the Town's comments alleging that the fence is 2' high on the left side only just for 10 feet in from the street. I believe this should not be required to be changed as the fence as built truly makes for a much better viewing pleasure to drive by and any reduction in the left side fence will not allow for any more views yet it would actually ruin the privacy and protection and aesthetics of the entire project and not contribute but rather detract from the enhancement of both yards and this artistic fence. There is complete view into the property in the front and on the right side and privacy on the busy, noisy & dangerous Street between neighbors as is badly needed.

Thank you for your attention to this matter.

Very truly Yours,

Hazel Paulette Emond
Paulette Emond

Doc ID: 65394bf32917ad5da491864633c8cf01b2f66722

August 30, 2018

Exhibit # 4

Page 5 of 8

Town of Provincetown
Department of Community Development
Town Hall
260 Commercial Street
Provincetown, MA 02657

Re: 206 Bradford Street, Fence

To whom it may concern:

We live at and own the Watermark Inn on Commercial Street for decades and we pass by 206 Bradford Street very frequently each week and the new fence really makes the property much more aesthetically pleasing. It transforms the area for the better and is very beautiful and artistic. It is an improvement to fence design in Provincetown. It enhances that notoriously dangerous busy section of Bradford Street for the better and is safe for the occupants that include a young child and better for the abutters who have some privacy now and a little blockage from the huge trucks, construction trucks, delivery trucks, tour busses, trolleys, tour busses and other big vehicles from the obnoxious loud noise and bright lights.

I am aware of the Town's comments alleging that the fence is 2' too high on the left side. However we believe this should not be required to be changed as the fence as built truly makes for a much better viewing pleasure to drive by and any reduction in the left side fence will not allow for any more views. In fact it would actually ruin the privacy and protection and aesthetics of the entire project. This would not contribute but rather detract from the enhancement of both yards. There is a full and complete view into the front yard of the property at 206 Bradford which the Town and everyone can enjoy. This fence allows privacy on the busy, noisy and dangerous street between neighbors as is badly needed. This is a beautifully designed fence as built and should not be required to be changed.

Thank you for your attention to this matter.

Very truly yours,

Kevin Shea & Judy Richland





Exhibit # 4
page 6 of 8

Sept 5, 2018

Dear Historic Commission,
I own the Inn at Cook Street
and we love the new contemporary
fence at 206 Bradford Street.

We are aware of the issues
and see no need for changes.

Thank you

John Jay Weld
Owner
Inn at Cook Street.

Inn at Cook Street

7 Cook Street, Provincetown, MA 02657

508-487-3894 888-COOK-655

info@innatcookstreet.com www.innatcookstreet.com

August 30, 2018

Town of Provincetown
Historic District Commission
Attn: Anne Howard
Department of Community Development
Town Hall
260 Commercial Street
Provincetown, MA 02657

Re: 206 Bradford Street, Fence

Historic District Commission et al:

I am the owner of 206 Bradford Street, and I would first like to say that I am very sorry if there was any miscommunication or misunderstanding about the fence I was building. I thought it was clear what my intentions and plans were through the application process and open hearing, and I did not know about what you are now telling me. As you know I filed and obtained HDC approval to put up a fence. At the time of the Hearing last September, 2017, I remember having several conversations with Board Members on the record about being unsure what type of wood I would use and not sure who I could even find to build such a unique horizontal fence and that I might have to continue the back garden fence on the side to the street; or if I could, build Corinthian granite stone pillars on each corner to match the stone wall on the premises. There was a lot of work and unexpected problems to get the fence completed. There is an underground propane tank, septic pipes, electric pipes and plumbing pipes all thru my little yard. The fence posts could not go down in certain areas and no matching stone could be found. In fact, the fence post cannot be moved on the side of the Ohara property, as it is very close to my propane tank as it is now.

Thus, after almost a year of research and planning I was finally able to put all the pieces together to get the fence up. I used a very expensive African hard wood called IPE for extra strength and durability given the fast moving and dangerous Traffic, consisting of construction trucks, tour buses, trolleys, etc., that pass dangerously close to my house. Every year I see accidents in front of my house with cars and bikes. Police & Emergency vehicles have even pulled into my driveway to attend to victims. The Town has labeled this section of Bradford Street as "Dangerous" once putting the word "DANGER" in yellow on the street in front of my house. Most recently, in the past few weeks, a "Neon Blinking Red Stop Sign" was installed at Howland Street trying to stop the excessive speeding cars past my house down the hill and, police sit waiting for speeders there too. Moreover, cars do not even stop at the crosswalk for me as a pedestrian with a baby stroller!! This is a dangerous section of Bradford Street.

I went to great expense in terms of time and money and attention to artistic detail for the beauty of the Town and the enjoyment of my property. Finally! I am happy to say

after more than 10 years the house is looking much better for all to enjoy and admire. Many people each day stop to tell me how nice the fence is and what a great job was done, and how beautiful it is. Just yesterday the owner from Jordan furniture stopped at my property to ask all about the fence and compliment it. People literally stop and look and ask and admire and love it all. Everything about the new fence has been well received positively by all neighbors and abutters. For the first time in decades my house and my abutter at 204, John O'Hara, have protection and some privacy from the busy, noisy, dangerous Bradford Street and our yards are both much better with the fence between abutting neighbors to also protect against glaring truck night lights and litter. I spoke with John Ohara and he is delighted to have the much needed privacy and protection and loves the fence and does not want to see any changes.

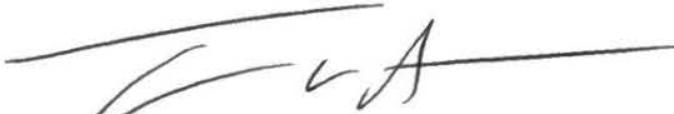
This is not your average fence but rather a very expensive, extremely well built and hand crated, one-of-a-kind, work of art that transforms the area for the better and is very beautiful and artistic. There is nothing else like it in Provincetown. It really enhances Bradford Street for the better and is safe for me and my 4 year old daughter with the danger of traffic so close and the noise and lights and trash and smell from big trucks and busses, this fence is a necessity and should not be changed. Changing it as requested would eliminate needed privacy, noise, smell, trash and safety barriers from Bradford Street and between neighbors and ruin the esthetics of the fence.

I feel strongly that the fence should not be changed and I request a variance or whatever is needed in order to keep the fence as constructed. Again, I apologize for any misunderstanding.

I am aware of the Town's comments alleging that the fence is 2' high on my yard side only just for 10 feet in from the street. It really is a great fence and I believe that leaving it as-is would be for the better. The fence makes this entire area of Bradford St and the yards SO MUCH BETTER and NICER for the viewing pleasure of thousands who drive and walk by, which is the Town's goal on a fence policy. Any reduction in the left side fence will not allow for any more views, but it *would* ruin the privacy and protection and aesthetics of the entire project, and not contribute but rather detract from the enhancement of both yards and this artistic fence. Also, my neighbor's large bushes/trees would then encroach on the fence and into my yard and look ugly. There is a complete view into the property at 206 Bradford in the front yard for all to enjoy and some privacy on the busy, noisy & dangerous Street. With due respect, I request that you allow the fence between me and my neighbor at 204 Bradford St to remain as is.

Thank you for your attention to this matter.

Very truly Yours,


Tammy L. Arcuri

18CV00518



Exhibit # 5

Barnstable, ss.
Court

Barnstable Superior
C.A. No.

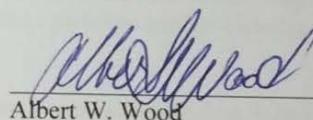
Tammy L. Arcuri,)	
Plaintiff)	
)	
V.)	
Provincetown Historic District Commission)	AFFIDAVIT OF
Thomas Biggert, Representative)	ALBERT W. WOOD
Provincetown Building Commission)	
Anne Howard, Commissioner)	
Defendants)	
)	

I, Albert W. Wood, hereby state the following under oath:

1. I am a Master Carpenter and Artist. I work for myself and I create fine wood art engravings and perform all types of carpentry, I am also a Master Stoneman with about 40 years of experience.
2. I am the person who built the mid-century modern fence at 206 Bradford Street, Provincetown, for Ms. Tammy Arcuri. I am also the Master Stoneman who built the Corinthian stone wall at this property).
3. This fence is a one-of-a-kind hand-built fence unique in every way. There is not another one like it anywhere. The material used was the of the highest quality, called African IPE. This is an extremely hard and dense wood also known as wood of steel which required each screw hole to be pre-drilled and hand screwed, there are over Two Thousand (2,000) stainless steel screws in this fence.
4. I painstakingly and precisely hand cut over 642 corner pieces at 45-degree angles in order to cover each and every ugly pressure treated fence post with the fine African IPE. This is one of the fine intricate details of my work. In fact, the fence post covered at the corner which the Town is requested to be cut bears my signature as the creator and artist of this fine work. I am extremely proud of this work.
5. No attention to detail was left out when I built this fence. Enormous efforts and time commitment were spent building. The gates are also hand built, custom made and unique.

6. The mid-century horizontal fence joined the linear shiplap fence in the most pristine way. I created a simple linear structure in keeping with the Mid-Century Modern style of the house architecture.
7. If the 2-foot section of the fence at issue is torn down it will completely ruin and the cohesiveness and the simple linear visual of the mid-century modern fence will be destroyed. It will not connect together correctly if it is cut and no patch or repair that could ever make the fence look right again. Artistically it will be destroyed and no benefit whatsoever will be achieved by the Town or people passing by.
8. It is also my job to help Ms. Arcuri landscape the property. If the fence is cut it will be impossible to properly landscape as the abutter's bushes will intrude into the yard and nothing will look right. Conversely, if the fence is allowed to remain as is, landscaping can easily and professionally "hide" that portion of the fence requesting to be cut. Hiding and Cutting are two dramatically different things. Hiding will allow proper landscaping to be done AND cohesiveness of the entire project AND save the artist designed covered post as well as my Artist signature
9. Many people, including the owner of Jordan's furniture, stopped to complement my work and admired the fence stating it was an amazing overall job. Everyone really likes the fence. Cutting a hole in it will ruin everything.

Witness my hand and seal this 13th day of September, 2018



Albert W. Wood

8 -

5

0



18CV00518

< 5

18

Exhibit #6

Barnstable, ss.

Barnstable Superior Court
C.A. No.

Tammy L. Arcuri,)	
Plaintiff)	
)	
v.)	
Provincetown Historic District Commission)	AFFIDAVIT OF
Thomas Biggert, Representative)	SERGE JOYAL
Provincetown Building Commission)	
Anne Howard, Commissioner)	
Defendants)	
)	

I, L' hon. Serge Joyal, C.P., O.C.. hereby state the following under oath:

1. I am a senior senator in the Canadian parliament.
2. I have owned the property at 206A Bradford Street, directly behind Ms. Tammy Arcuri for many decades and have no intentions of selling.
3. The new modern style fence Ms. Arcuri constructed on her property is a work of art, that completely transformed her yard, her neighbors' yards, and the entire street. I even told the builder to put an artist's signature on it because it's an absolute work of art.
4. The fence is built is a cohesive and wonderful addition which supports the main purpose and spirit of fences in Provincetown, which is to promote garden viewing, preserve site vistas and create privacy.
5. In this case, an even more pressing matter was accomplished with this fence, namely safety for the occupants as well as pedestrians passing by. This is a very dangerous section of Bradford Street with no sidewalks and heavy vehicle, buses, trucks and trolley traffic. This fence allows for safe passage in the area.
6. I fully understand the town's request to cut a small 2' x 8-10' portion of the side perpendicular fence. That would change and ruin this entire project and its aesthetic value as well as provide absolutely no benefit to anyone. Additionally, removing this section of the fence will also cause tree branches from the neighbor to fall over the fence, which would look terrible.
7. The small portion of the fence that the Town wants removed cannot even be seen by drivers and passers-by when leaving town. Removing that portion would simply create a gaping hole in the fence in that section, and a complete eyesore to me, that would ruin the aesthetics and not contribute any benefit to anyone.

8. I've read the by-laws and it appears to me that they have been followed in great spirit and deed.

9. As further providing my thoughts and feelings about this issue, I offer a letter that I have written to the Provincetown Department of Community Development as attached Exhibit A for your consideration.

10. I respectfully request that this artistic, wonderful fence be allowed to remain as is. Any cutting change would destroy the overall character at great hardship to the owner and neighbors with no benefit to anyone.

Signed this 15th day of September, 2018, under the pains and penalties of perjury



L'Hon Serge Joyal

Exhibit # 7

Barnstable, ss.

Barnstable Superior Court
C.A. No.

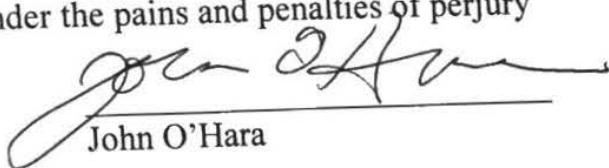
Tammy L. Arcuri,)
Plaintiff)
v.)
Historic District Commission,)
Thomas Biggert)
Provincetown Building Commissioner,)
Anne Howard,)
Defendants)
)

AFFIDAVIT OF
JOHN O'HARA

I, John O'Hara hereby state the following under oath:

1. For nearly 50 years my family has owned the property located at 204 Bradford Street, directly abutting 206 Bradford Street and we have no intentions of selling.
2. My neighbor, Tammy Arcuri, recently installed a new fence parallel to the street and extended an existing fence perpendicular to the street between our properties.
3. I love everything about the new fence and I am delighted to have this fence up. The new fence creates needed safety from the dangerously busy street.
4. The fence in front of her property, parallel to the street, is not an average, cookie cutter fence. It is an attractive, well-built, unique, and very artistic fence that is a benefit to the aesthetics of the Town.
5. The fence that is perpendicular to Bradford Street between our properties is a continuation of an existing fence extending along the property line. It matches the existing fence in design and size. This extension of the existing fence is screened from the street by an existing 8-foot-high mature hedge at the front of my property.
6. I believe this fence should remain as constructed. Altering this fence as the Town has requested will have no positive benefit or effect. It will create an awkward looking transition in the middle of our front yards which will serve no useful purpose but rather create a constant nuisance with my hedges growing in the opening of the fence if it were cut. Cutting the fence will look horrible and ruin the entire beautiful project and serve no purpose. Landscaping is the best way to resolve this.

Signed this 15th day of September, 2018, under the pains and penalties of perjury



John O'Hara



Before fence

After
with fence

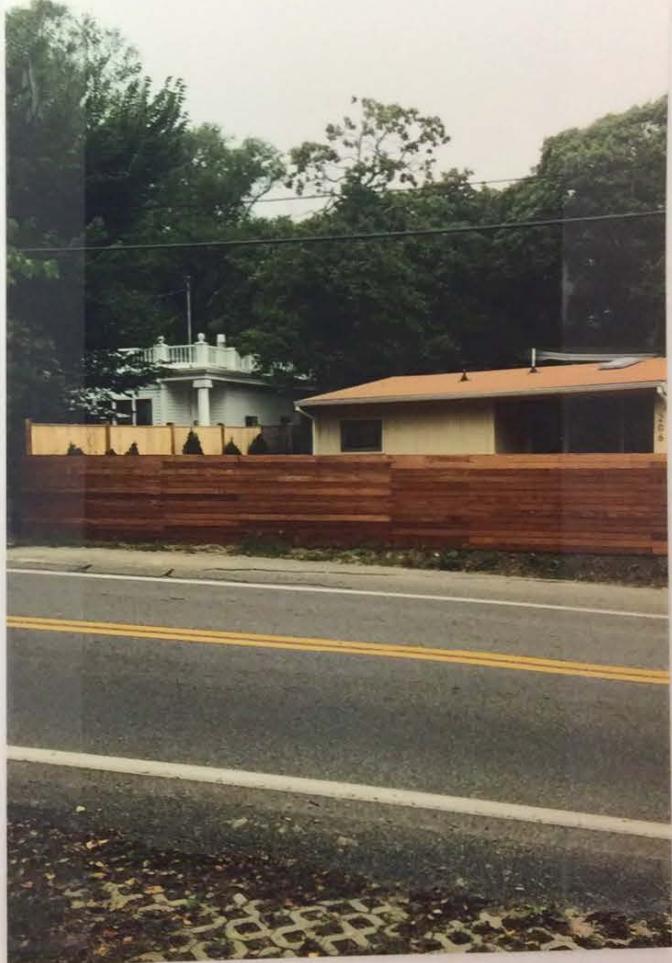


Exhibit #8
page 2 of 5



All posts hand
Decorated by
Master Carpenter



immediate
abutter/
neighbors
yard -

perpendicular
fence



Exhibit #8
page 3 of 5

Examples of other 6' fences in
Provincetown perpendicular to street
at property lines



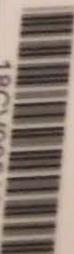
Exhibit #8
page 4 of 5

examples

Continued



18
5
0



Examples
Continued

Exhibit 48
page 545